

05/11/2011 16:30 FAX

003/010

Claim # 1831442010

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX**

JESSENIA APONTE

Plaintiff(s),

-against-

**FED EX GROUND, INC and
ELVIS P. SANCHEZ,**

Defendants.

X 202887-11
Plaintiff designates
Bronx County as the
Place of trial.

SUMMONS

Basis of venue is
County where plaintiff
Jessenia Aponte
resides:

840 Reverend James
Polite Ave, Bronx,
New York 10459.

X
TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with the Summons, to serve a notice of appearance, on the plaintiff's attorney, within twenty (20) days of service, or within thirty (30) days after the service is complete if this summons is not personally delivered to you within the State of New York; and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Bronx, New York
March 31, 2011

Yours, etc.,

MICHAEL T. RIDGE, ESQ.
Attorney for Plaintiff
OFFICE AND P.O. ADDRESS
910 Grand Concourse, Suite 1D
Bronx, New York 10451
(718) 590-5400

LAW OFFICES OF
MICHAEL T. RIDGE

200 CHASE STREET, 10TH FLOOR
NEW YORK, NY 10013
TELEPHONE: (718) 590-5400
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DEFENDANT'S ADDRESS:

**FED EX GROUND, INC.
11 8TH AVENUE
NEW YORK, NEW YORK 10011**

**ELVIS P. SANCHEZ
3065 GRAND CONCOURSE
BRONX, NEW YORK 10468**

LAW OFFICES OF

MICHAEL T. RIDGE

ONE GRAND CONCOURSE STE 10

BRONX, NY 10468

TELEPHONE 718

281-4400

FAX 281-4285

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**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX**

JESSENIA APONTE,

Plaintiff,

-against -

VERIFIED COMPLAINT

**FED EX GROUND, INC.
and ELVIS P. SANCHEZ,**

Defendants.

Plaintiff complaining of the defendants by her attorney,

MICHAEL T. RIDGE, ESQ., respectfully shows to this Court and
alleges:

1. That at all times hereinafter mentioned, and at the commencement of this action, the plaintiff w and the defendant **ELVIS P. SANCHEZ** were and still are residents of the County of Bronx, City and State of New York.
2. Upon information and belief, that at all times hereinafter mentioned, the defendant, **FED EX GROUND, INC.** was the owner/lessee of a 2004 GMC Truck bearing the Oklahoma license plate number 2EC 011 for the year 2010.
3. Upon information and belief, that at all times hereinafter mentioned, defendant, **ELVIS P. SANCHEZ**, was the operator of the 2004 GMC Truck bearing Oklahoma license plate number 2EC 011 for the year 2010 with the permission and consent of the defendant **FED EX GROUND, INC.**
4. That at all times hereinafter mentioned Plaintiff **JESSENIA APONTE** was the owner and operator of a 2002 Mercedes Benz motor vehicle bearing New York State License Plate number

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DRV9152 for the year 2010.

5. That at all times hereinafter mentioned, Bruckner Boulevard at or near its intersection with Havemeyer Avenue in the County of the Bronx, City and State of New York, was and still is a public street.

6. That on the 28th day of August, 2010 at approximately 4:00 p.m. there was a contact between the aforesaid motor vehicles.

7. That the accident and the injuries and damages to the plaintiff, **JESSENIA APONTE**, resulting therefrom were caused by the negligence of the defendants.

8. That the defendants were negligent, in that they owned and operated their motor vehicle in a negligent, reckless manner and violated these ordinances in such cases made and provided and that the defendants were otherwise negligent.

9. That by reason of the aforesaid, the plaintiff, **JESSENIA APONTE**, has been rendered sick, sore and disabled; was seriously and permanently injured; has suffered mental and nervous shock, all with accompanying pain; and has had and will require medical treatment and medicines.

10. That as a result of the foregoing, the plaintiff, **JESSENIA APONTE** has sustained a serious injury as defined in Section 5102 (d) of the Insurance Law of the State of New York, and/or economic loss greater than basic economic loss as defined in Section 5102 (a) of the Insurance Law of the State of New York.

11. That as a result of the foregoing, plaintiff, **JESSENIA APONTE** was caused to suffer damages in an amount of money that exceeds the monetary jurisdiction of all lower Courts, which would

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otherwise have jurisdiction over this action.

AS AND FOR A SECOND CAUSE OF ACTION
VICARIOUS LIABILITY

12. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1-11 as if set forth at length and verbatim herein.

13. During the scope and course of his employment with Defendant, **FED EX GROUND, INC.** defendant driver **ELVIS P. SANCHEZ**, breached his duty to drive a motor vehicle on a public highway in such a manner that he could stop in time to avoid a collision with an object in his range of vision and/or within the area lighted by his headlights.

14. The negligence, careless, and wrongful acts of its employee are imputed to defendant **FED EX GROUND, INC.**

15. At all times Defendant, defendant driver **ELVIS P. SANCHEZ** was acting in the scope and course of his employment with Defendant, **FED EX GROUND, INC.**

16. That as a result of the negligence of Defendants, as aforesaid, Plaintiff, sustained severe and protracted personal injuries, endured pain and suffering, was incapacitated from her normal pursuits, incurred lost earnings and medical expenses, lost the enjoyment of life, and Plaintiff, is informed and verily believes that same will continue in the future, all to his/her detriment and loss.

WHEREFORE, Plaintiff demands judgment against the Defendants in an amount which exceeds the jurisdictional limits of all other Courts.

AS AND FOR A THIRD CAUSE OF ACTION
NEGLIGENT HIRING, TRAINING, AND RETENTION

17. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1-16 as if set forth at length and verbatim herein.

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18. Defendant, **FED EX GROUND INC.**, owed the general public, including the plaintiff, a duty to determine the qualifications of its employees including but not limited to:

- a) Adequately evaluating applicants before hiring them as truck drivers;
- b) Adequately training and supervising these drivers;
- c) Adequately evaluating these employees' job performance so as to discharge any incompetent or negligent employee before he injured the public or property;
- d) Pursuant to 49 CFR 382.201 et. seq., 382.301 et. seq., 383.35, and 391 et. seq., conduct and adequate investigation or inquiry into the driving record of **ELVIS P. SANCHEZ**.

19. Defendant **FED EX GROUND INC.**, breached these duties to the general public, including the plaintiff, by its negligent and careless training, hiring, training, supervision, and retention of defendant **ELVIS P. SANCHEZ**, who was unqualified, incompetent, and/or negligent and careless.

20. As a direct and proximate result of the negligence, careless, and wrongful acts of Defendant, **FED EX GROUND INC.**, Plaintiff sustained severe and protracted personal injuries, endured pain and suffering, was incapacitated from her normal pursuits, incurred lost earnings and medical expenses, lost the enjoyment of life, and Plaintiff, is informed and verily believes that same will continue in the future, all to her detriment and loss.

WHEREFORE, Plaintiff demands judgment against the Defendants in an amount which exceeds the jurisdictional limits of all other Courts.

WHEREFORE, plaintiff, **JESSENIA APONTE**, demands judgment against the defendants in an amount of money that exceeds the monetary jurisdiction of all lower courts, which would otherwise have jurisdiction over her cause of action alleged herein, together with interest,

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costs and disbursements of this action.

Dated: Bronx, New York
March 31, 2011

Yours, etc.,

MICHAEL T. RIDGE, ESQ.
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Bronx, New York 10451
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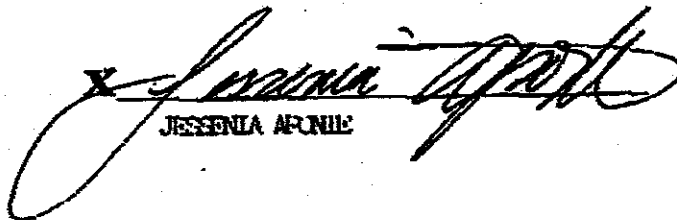
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VERIFICATION

STATE OF NEW YORK)
COUNTY OF BRONX) ss.:}

JESSENIA ARNIE, BEING DULY SWORN
DEPOSES AND SAYS: THAT DEPONENT IS THE PLAINTIFF IN
THE WITHIN ACTION; THAT DEPONENT HAS READ THE
FOREGOING SIMONS AND VERIFIED COMPLAINT AND
KNOWS THE CONTENTS THEREIN STATED TO BE ALLEGED
UPON INFORMATION AND BELIEF, AND THAT AS TO THOSE
MATTERS DEPONENT BELIEVES IT TO BE TRUE.


JESSENIA ARNIE

SWORN TO BEFORE ME THIS

31 DAY OF March, 2011

NOTARY PUBLIC

MICHAEL T. RIDGE
Notary Public, State of New York
No. 02RI4684430
Qualified in Bronx County
Commission Expires August 31, 2013

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**FED EX GROUND INC, and
ELVIS P. SANCHEZ,**

Defendant(s).

SUMMONS AND VERIFIED COMPLAINT

MICHAEL T. RIDGE, ESQ.

Attorney(s) for Plaintiff(s)

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